

NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE
AUGUST 11, 2015 MINUTES

**GAMING CONTROL BOARD
GRANT SAWYER BUILDING
555 E. WASHINGTON AVENUE, ROOM 2450
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:
GAMING CONTROL BOARD
1919 COLLEGE PARKWAY,
CARSON CITY, NEVADA 89706**

AUGUST 11, 2015

9:07 A.M.

1-A) Introduction of Commissioners in attendance

In Las Vegas: Debbie Huber; and Glenn Anderson.

In Carson City: Stephen Johnson; Cynthia Hoonhout; Daniel Walsh; Keith Marcher as Commission Counsel.

1-B) Introduction of Division Staff in attendance

In Las Vegas: Joseph Decker, Administrator; Teralyn Thompson, Administration Section Manager; Claudia Rosolen, Commission Coordinator.

In Carson City: Michael Jory, Deputy Administrator; Brenda Kindred-Kipling, Appraisal Officer; and Gina Session as Division Counsel.

2) Public Comment

None

6-A) Disciplinary Report

Teralyn Thompson presented this report. Ms. Thompson stated that Mr. Tomasini is up to date with his payments. Ms. Thompson stated that Mr. Cunningham has completed his education and the next report will show that he has completed his discipline. Ms. Thompson stated that Mr. James has completed his discipline.

6-B) Discussion regarding Appraisal Officer's report on compliance case load for Fiscal Year 15-16, year-to-date

Brenda Kindred-Kipling presented this report. Ms. Kindred-Kipling stated that she has thirty-six open cases. Ms. Kindred-Kipling stated that typically the Division receives more cases between the months of April and June. Ms. Kindred-Kipling stated that she has thirty-three cases pending investigation that are in between 0 to 12 months old and three of them are between 13 to 24 months old.

6-D) Administrator's report

Joseph Decker presented this report. Mr. Decker introduced the new Deputy Administrator Michael Jory to the Commission.

Michael Jory gave a brief introduction about his background and credentials.

Mr. Decker stated that the Division is in the process of filling two positions in the Licensing Section. Mr. Decker stated that the Division is having issues filling the position for an appraisal investigator in Carson City. Mr. Decker stated that the Division is working on trying to increase the position's step level in order to attract the best candidates.

Mr. Decker stated that the Division's proposal to go self-funded did not pass. Mr. Decker stated that the Division remains a general fund agency.

Commissioner Huber asked about the fee increase proposal.

Mr. Decker stated that it would have been a nominal fee increase of ten dollars a year for real estate licensees and appraisers. Mr. Decker stated that the fee increase would have been sufficient to create a reserve account and eventually start increasing the number of services that the Division would have been able to offer.

Commissioner Huber stated that the Division should start educating the public about the benefits that a fee increase would provide before the next Legislative session starts.

6-C) Discussion of Customary and Reasonable Fees in regard to the Dodd-Frank Act

Ms. Kindred-Kipling stated that at this time she does not have any new information and requested to place this item on the next agenda.

6-E) Discussion regarding altering photos or utilizing photos from different sources in an appraisal report.

Commissioner Walsh stated that his concern was about altering photos by cropping out watermarks and using them in reports. Commissioner Walsh stated that the Commission should set a tone on the topic by encouraging appraisers to place a note on the report with the source of where the photo came from.

Ms. Kindred-Kipling stated that before cropping out the watermark from an MLS photo the appraiser needs to make sure that this is not prohibited by the contract that they have with MLS.

Commissioner Hoonhout stated that she had seen engagement letters stating that only original photos can be used.

Commissioner Anderson stated that this is more of a residential appraisers concern than commercial.

6-F) Discussion regarding Arizona passing a law eliminating the Appraisal Board and related U.S. Supreme Court case. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 574 U.S. ___, No. 13-354, (Feb. 25, 2015)

Mr. Decker stated that this is a legal issue and at this time the Division doesn't have any information on how this issue will impact Commissions.

Keith Marcher stated that North Carolina Dental Board started to send cease and desist letters to mail workers that were practicing teeth whitening stating that they were required to have a dental license in order to perform that type of activity. Mr. Marcher stated that those individuals who were performing teeth whitening complained to the Federal Trade Commission and the Federal Trade Commission sued the Dental Board under an antitrust provision. Mr. Marcher stated that the basis of the suit was that the

Dental Board was engaging in anti-competitive behavior. Mr. Marcher stated that the case end up in the United States Supreme Court. Mr. Marcher stated that the State argued that they were immune by that type of litigation. Mr. Marcher stated that if an entity is made of market participants and there is no active State supervision that controls that particular entity, the immunity defense in litigation is lost. Mr. Marcher stated that the United States Supreme Court stated that if you are made of market participants and do not have active State supervision you are not immune and that immunity disappears. Mr. Marcher stated that the all the states are affected by this case and that in the State of Nevada the Attorney General is meeting with the Governor's Office to discuss the issue.

Commissioner Walsh asked if judicial review is considered oversight.

Mr. Marcher stated that the fact that someone can appeal to a Court would not satisfy the active State supervision requirements articulated in the decision.

3) Petition to Modify Commission's License Denial Appeal Order
Thomas E. Dugan, A.00206655-INTR, File No. S-645C-LDA-13-001
Thomas E. Dugan and Scott Dugan were present.

Commissioner Huber stated that she had a business relationship with Mr. Scott Dugan and shared information via the internet during those times. Commissioner Huber stated that this will not affect her ability to be fair and impartial.

Mr. Marcher asked Mr. Dugan if he thinks Commissioner Huber should recuse herself from this matter.

Mr. Dugan stated that he is fine with Commissioner Huber proceeding in this case.

Commissioner Anderson moved for the Commission meeting to go into closed session to review Mr. Dugan's petition to modify the Commission's license denial appeal order in accordance with NRS 241.030(1). Commissioner Huber seconded.

Motion carried unanimously.

Review and discussion was conducted in closed session.

Meeting returned to open session.

Commissioner Walsh stated that at this time the Commission should maintain the existing order.

Commissioner Anderson stated that Mr. Dugan was clean and sober for numerous years before the Commission placed the drug testing into the stipulation. Commissioner Anderson stated that at that time it was insurance for the public. Commissioner Anderson stated that he would be in favor of removing that requirement.

Commissioner Huber agrees with Commissioner Anderson in removing the drug test requirements.

President Johnson stated that Mr. Dugan was straight forward and honest from the beginning.

Commissioner Anderson moved to remove the request that Mr. Dugan submits to random drug testing every three (3) months at Thomas Dugan's own expense; and that Thomas Dugan's supervisory

appraiser, Scott Dugan, shall submit a bi-annual written report regarding the fitness and performance of Thomas Dugan's appraisal duties instead of an annual report. Commissioner Hoonhout seconded.

Motion carried 4 to 1 with Commissioner Walsh opposed.

4-1) NRED v. MICHAEL HATCH CASE No. AP15.014.S

4-2) NRED v. MICHAEL HATCH CASE No. AP14.021.S

4-3) NRED v. MICHAEL HATCH CASE No. AP15.027.S

Parties Present

Chief Deputy Attorney General Gina Session was present representing the Division.

Michael Hatch was present.

Preliminary Matters

Ms. Session stated that there was a settlement agreement.

Ms. Session read the Alleged Facts, Alleged Violations and Stipulation for Settlement into the record.

Proposed Stipulation for Settlement:

- Fifteen Thousand Dollars (\$15,000) in administrative fines within twenty-four (24) months.
- Fifteen (15) hour USPAP course, including taking and passing the exam;
- Fifteen (15) hour Residential Report Writing and Case Studies Course including taking and passing the exam;
- Three (3) hour Nevada Law course; and a fifteen (15) hour Residential Site Valuation and Cost Approach including taking and passing the exam; and

President Johnson asked if there was a provision for monthly payments.

Ms. Session stated that Mr. Hatch will contact the Division for a payment plan.

Mr. Hatch stated that he disagree with ninety percent of the allegations. Mr. Hatch stated that a possible ten percent of the allegations could be correct since he relies too much on technology and proofreading. Mr. Hatch stated that it was probably better to try to settle the matter since each allegation is ten thousand dollars (\$10,000).

Commissioner Huber asked Mr. Hatch how much time he currently spends doing appraisals.

Mr. Hatch stated that he does maybe forty to fifty appraises a month. Mr. Hatch stated that he is doing a lot of community work and does not work as much as he used to.

Commissioner Hoonhout asked if he was supervising other appraisers.

Mr. Hatch answered no.

Ms. Session stated that the monthly payment would be of six hundred and twenty-five dollars (\$625).

Mr. Hatch agreed with the amount of the monthly payments.

Mr. Decker asked to include the provision that in the event of a failure to make any of the monthly payments the license will become suspended.

Stipulation for Settlement:

- Fifteen Thousand Dollars (\$15,000) in administrative fines within twenty-four (24) months with monthly payments of six hundred and twenty-five dollars (\$625);
- Fifteen (15) hour USPAP course, including taking and passing the exam;
- Fifteen (15) hour Residential Report Writing and Case Studies Course including taking and passing the exam;
- Three (3) hour Nevada Law course; and a fifteen (15) hour Residential Site Valuation and Cost Approach including taking and passing the exam; and
- A failure to timely make a monthly payment will result in the automatic suspension of Respondent's license.

Mr. Hatch accepted the terms and conditions of the stipulation.

Commissioner Anderson moved to accept the stipulation of settlement. Commissioner Huber seconded.

Motion carried unanimously.

5) ADVISORY REVIEW COMMITTEE INFORMAL CONFERENCE:

5-1) NRED v. KERRI LEONARD Case No. AP15.016.S

Brenda Kindred-Kipling read the Committee Report into the record.

Ms. Kindred Kipling stated that the Respondent agreed with the committee's recommendations.

Commissioner Walsh moved to accept the Stipulation for Settlement of Disciplinary Action.
Commissioner Hoonhout seconded.

Motion carried unanimously.

5-2) NRED v. CHUKWUNWEIKE UDOM Case No. AP15.015.S

Brenda Kindred-Kipling read the Committee Report into the record.

Ms. Kindred Kipling stated that the Respondent agreed with the committee's recommendations.

Commissioner Huber stated that she has a conflict of interest in the matter and recused herself from voting.

Commissioner Anderson moved to accept the Stipulation for Settlement of Disciplinary Action.
Commissioner Walsh seconded.

Motion carried with Commissioner Huber abstained.

5-3) NRED v. TRAVIS GLIKO Case No. AP15.038.S

Brenda Kindred-Kipling read the Committee Report into the record.

Ms. Kindred Kipling stated that the Respondent agreed with the committee's recommendations.

Commissioner Anderson moved to accept the Stipulation for Settlement of Disciplinary Action. Commissioner Huber seconded.

Motion carried unanimously.

6-G) Discussion and decision regarding regulatory changes to NAC Chapter 645C including but not limited to:

1. Amendments to NAC 645C.345 regarding requirements for receipt for continuing education credit to a licensee who develops a continuing education course.

Joseph Decker stated that the intent is to amend this regulation to allow developers of courses, not only instructors, to receive continuing education credits. Mr. Decker stated that for community manager licensees there was a proposed regulation change that allows developers and instructors to receive continuing education credits. Mr. Decker stated that the proposal was dropped by the Commission in light of a proposed statute change. Mr. Decker stated that on the real estate side, developers and instructors do not receive any continuing education credits.

Commissioner Hoonhout asked if this is a onetime credit.

Mr. Decker stated that this is one credit per renewal cycle for developing a course.

President Johnson asked if this would be for one hour credit for one hour of continuing education.

Mr. Decker stated that it is one hour per one hour of continuing education credit.

Commissioner Walsh moved to support the regulatory changes to NAC 645C.345. Commissioner Huber seconded.

Motion carried unanimously.

6-H) For possible action: Discussion and possible action to approve the minutes of March 24, 2015 meeting

Commissioner Huber moved to approve the minutes of March 24, 2015 meeting. Commissioner Hoonhout seconded.

Motion carried unanimously.

6-I) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings.

The next Commission meeting is scheduled for November 4-5, 2015.

6-J) Commissioner Comment

Commissioner Huber thanked Division staff for their work.

6-K) For possible action: Discussion and decision regarding election of officers for FY 16

Commissioner Walsh moved to elected Commissioner Glenn Anderson as President. Commissioner Huber seconded.

Motion carried unanimously.

Commissioner Hoonhout moved to elected Commissioner Daniel Walsh as Vice-President.
Commissioner Huber seconded.

Motion carried unanimously.

Commissioner Walsh moved to elected Commissioner Cindy Hoonhout as Secretary. Commissioner Huber seconded.

Motion carried unanimously.

7) Education

CONSENT AGENDA

7-1) Allterra Group

- a. FHA Appraisals and Reporting Requirements, 7 hours**
- b. 2015 Regulatory Update/Best Practice, 7 hours**
- c. 2015 Keynote/The Future of Valuation, 7 hours**

7-2) American Society of Farm Managers & Rural Appraisers

- a. Understanding and Using Comparable Techniques, 7 hours**
- b. Introduction to Statistical Analysis for Appraisers, 8 hours**
- c. Rural Sales Analysis and Confirmation, 8 hours**
- d. Foundations of Appraisal Review, 40/36 hours**

7-3) American Society of Farm Managers & Rural Appraisers, CA Chapter

- a. Outlook 2015 Regional AG Tour, 8 hours**
- b. Outlook 2015 Agribusiness Conference, 8 hours**

7-4) The Appraisal Institute

- a. Online Appraising Convenience Stores, 7 hours**
- b. Online Thinking Outside the Form, 4 hours**
- c. Online Small Hotel/Motel Valuation, 7 hours**
- d. AI Connect 2015 – Day 2 AM, 4 hours**
- e. AI Connect 2015 – Day 2 PM, 4 hours**
- f. AI Connect 2015 – Day 3, 4 hours**

7-5) The Columbia Institute

- a. FHA SFR Appraising Handbook 4000.1, 8 hours**
- b. Appraisal Review: Theory & Practice, 8 hours**
- c. 2015 Appraisal Summit & Expo, 7 hours**

7-6-a) Ken Hunsinger Seminars

- Completing the FHA Appraisal Report, 7 hours**

7-7) McKissock

- a. Strange but True: Appraising Complex Residential Properties, 7 hours**
- b. Appraisal Review for Commercial Appraisers, 7 hours**
- c. The new FHA Handbook 4000.1, 7 hours**
- d. The new FHA Handbook 4000.1, On line 7 hours**
- e. Adjustments: Supported or Not Supported, 7 hours**

f. Managing Appraiser Liability, 6 hours

7-8) National Association of Independent Fee Appraisers

- a. Statistical Analysis and Expert Valuation, 3 hours**
- b. The Secrets to Hotel/Casino Valuation, 7 hours**
- c. Words of Wisdom from VA and FNMA, 4 hours**
- d. Preparing and Presenting Expert Valuation Testimony, 4 hours**

Brenda Kindred-Kipling stated that the Division is recommending approval.

Commissioner Huber moved to approve the education consent agenda. Commissioner Walsh seconded.

Motion carried unanimously.

**7-9-a) American Society of Farm Managers & Rural Appraisers, CA Chapter
In Depth Unmanned Aerial Systems Workshop, 7 hours**

Brenda Kindred-Kipling stated that she has concerns about this course.

Commissioner Walsh stated that the he spoke with a couple of farmers and they stated that the use of drones in rural areas has benefits like providing accessibility to otherwise inaccessible areas.

Ms. Kindred-Kipling stated that this course was advertised as a hobbyist.

Commissioner Hoonhout stated that she agrees that the use of drones could be hugely advantageous, but requested to receive additional clarifications on the course content.

Commissioner Huber stated that she doesn't see any appraisers topics discussed in the course synopsis.

Commissioner Walsh stated that the Commission should table this course.

President Johnson asked if any other states have approved this type of course.

Ms. Kindred-Kipling stated that the application stated that the course had not been approved in other states. Ms. Kindred-Kipling stated that the application is from February, 2015.

President Johnson stated that the Commission agrees to table this course.

7-10) American Society of Farm Managers & Rural Appraisers

- a. Agricultural Chattel Valuation, 16 hours**
- b. ASFMRA 86th Annual Convention Day 1, 6 hours**
- c. ASFMRA 86th Annual Convention Day 2, 3 hours**
- e. Rapid Fire Case Studies 2015, 6 hours**

7-11) McKissock

- a. Avoiding Mortgage Fraud for Appraisers, 7 hours**
- b. Expert Testimony: to Do or Not to Do – Webinar, 4 hours**
- c. Workfile: Your Best Defense Against an Offense – Webinar, 5 hours**
- d. Fannie Mae Appraisal Guidelines – Live Webinar, 4 hours**

7-12) Appraisal Institute

a. FHA Appraising for Valuation Professionals, 7 hours

Brenda Kindred-Kipling stated that the Division is recommending approval.

Commissioner Huber moved to approve these courses. Commissioner Hoonhout seconded.

Motion carried unanimously.

8) Public Comment

None

Joseph Decker thanked President Johnson on behalf of the Division for his service on the Commission.

President Johnson thanked the Commission and stated that it was an honor to serve on this Commission. President Johnson stated that he is very proud to have served with each and every one of the commissioners.

9) Adjournment

The meeting was adjourned at 12:00 PM on August 11, 2015.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator